

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:10-CV-620-FDW-DSC**

ROBYN ADOLPHE,)	
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
AMERICAN HOME MORTGAGE)	
SERVICING, INC.)	
)	
Defendant.)	

THIS MATTER is before the Court on Defendant's Motion to Stay Pending Resolution of Motion to Dismiss (Doc. No. 28). Defendant seeks the period in which to hold a Rule 26(f) Initial Attorney's Conference and commence discovery should be tolled until the Court rules on Defendant's pending Motion to Dismiss for failure to state a claim upon which relief can be granted pursuant to Fed. R. Civ. P. 12(b)(6) (Doc. No. 23). Defendant's Motion is DENIED.

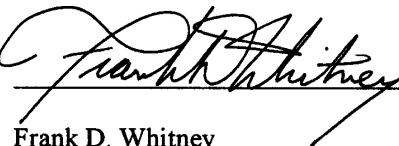
The Court refers Defendant to §§ 3(c)(i)-(ii) of this Court's Standing Order Governing Civil Case Management (3:07-mc-47, Doc. No. 2-4). It is this Court's practice to toll the period in which to initiate discovery only upon the filing of a motion to dismiss made pursuant to Rule 12(b)(1), 12(b)(2), 12(b)(4), or 12(b)(5), or a motion for a more definite statement made pursuant to Rule 12(e). However, "[t]he filing of any other preliminary motion – including motions made pursuant to Rules 12(b)(3), 12(b)(6), and 12(b)(7) – will NOT presumptively toll the time required to plead an answer, counterclaims, and/or third-party complaint," or otherwise toll the proceedings. (Id.) (emphasis included in the original). Defendant has not presented good cause why the Court should deviate from its standing rules.

IT IS THEREFORE ORDERED that Defendant's Motion to Stay is DENIED.

The Clerk is directed to send a copy of this Order to Plaintiff at 8947 Myra Way, Charlotte, NC, which is Plaintiff's address of record, and to counsel for the Defendant.

IT IS SO ORDERED.

Signed: April 15, 2011



Frank D. Whitney
United States District Judge

